

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: G. ANANTHARAMAN.

ORDER

UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/S. LEXUS SHARES & STOCK BROKERS PVT LTD, MEMBER, CALCUTTA STOCK EXCHANGE ASSOCIATION LIMITED IN RESPECT OF ITS DEALINGS IN THE SHARES OF PATRIOT TRADING COMPANY LIMITED.

Date of Hearing: February 19, 2007

Appearances:

For noticee : Shri Ashish Maheshwari Authorised Representative

For Securities and Exchange Board of India : Shri Jayanta Jash, Dy. General Manager

1.0 BACKGROUND:

- 1.1 The price of the shares of Patriot Trading Company Ltd. (hereinafter referred to as the company) increased from Rs. 2.30/- per share on August 01, 2001 to Rs. 62.16/- on February 15, 2002 at the Calcutta Stock Exchange Association Limited (hereinafter referred to as CSE), the stock exchange where the shares of the company were listed. Further, the price

of the shares of the said company showed a downward trend and reached Rs.27.05/- on February 28, 2002.

- 1.2 In view of the aforesaid unusual price movement noticed in the shares of the company, Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an investigation in respect of buying, selling and dealing in the shares of the company and to enquire into whether the said company, other intermediaries/persons associated with the buying, selling and dealing in the shares of the company contravened the provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the FUTP Regulations), Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations), Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, (hereinafter referred to as the 'Takeover Regulations'), Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations 1992.
- 1.3 The investigation conducted by SEBI found that certain members of CSE namely, Shri. Ballabh Dass Daga, Bubna Stock Broking Services Ltd., D.B & Co, Lexus Shares & Stock Brokers Pvt. Ltd. and Prakash Baid Securities Pvt. Ltd. traded substantially in the shares of the company and contributed 87% of the total turnover in the said shares at CSE during the period August 2001 to February 2002. The aforesaid members of CSE are also registered as stock brokers with SEBI. The aforementioned Lexus Share and Stock Brokers Pvt. Ltd. is hereinafter referred to as the Broker.
- 1.4 It was found that the Broker had executed trades for 9,88,000 (both buy and sale) shares of the company on behalf of its various clients out of the total turnover of 78,68,302 shares at CSE. Investigation revealed that the aforesaid trades were executed by way of cross deals. It was also found

that both the buy and sell orders were executed by the Broker in its single terminal at the same time with the same price and quantity with most of the trades being client to client transactions.

- 1.5 The transaction details of the Broker in the shares of the company are as follows :

DATE	SELL QTY	SELL RATE (Rs)	SELL VALUE (Rs)	BUY QTY	BUY RATE (Rs)	BUY VALUE (Rs)
01-Aug-01	50000	2.30	115000.00	50000	2.30	115000.00
06-Aug-01	74000	2.39	176600.00	74000	2.39	176600.00
09-Aug-01	260000	2.00	520000.00	260000	2.00	520000.00
13-Aug-01	60000	2.00	120000.00	60000	2.00	120000.00
06-Sep-01	50000	2.00	100000.00	50000	2.00	100000.00
	494000			494000		

- 1.6 The details of the cross deals executed by the Broker in the shares of company are given below:

Date	Order Time	Trade Time	OrderNo	TradeNo	Qty	Price	Buy /
1-Aug-01	13:57:05	13:57:18	360688271	829	2500	2.30	B
1-Aug-01	13:57:18	13:57:18	360688272	829	2500	2.30	S
1-Aug-01	13:57:05	13:57:18	360688271	830	2500	2.30	B
1-Aug-01	13:57:18	13:57:18	360688272	830	2500	2.30	S
1-Aug-01	13:57:05	13:57:18	360688271	831	2500	2.30	B
1-Aug-01	13:57:18	13:57:18	360688272	831	2500	2.30	S
1-Aug-01	13:57:05	13:57:18	360688271	832	2500	2.30	B
1-Aug-01	13:57:18	13:57:18	360688272	832	2500	2.30	S
1-Aug-01	14:19:11	14:19:22	360688281	833	10000	2.30	B
1-Aug-01	14:19:21	14:19:22	360688282	833	10000	2.30	S
1-Aug-01	14:24:37	14:24:42	360688286	834	2500	2.30	B
1-Aug-01	14:24:42	14:24:42	360688287	834	2500	2.30	S
1-Aug-01	14:24:37	14:24:42	360688286	835	2500	2.30	B
1-Aug-01	14:24:42	14:24:42	360688287	835	2500	2.30	S
1-Aug-01	14:24:37	14:24:42	360688286	836	2500	2.30	B
1-Aug-01	14:24:42	14:24:42	360688287	836	2500	2.30	S
1-Aug-01	14:24:37	14:24:42	360688286	837	2500	2.30	B
1-Aug-01	14:24:42	14:24:42	360688287	837	2500	2.30	S

1-Aug-01	14:24:53	14:24:58	360688288	838	2500	2.30	B
1-Aug-01	14:24:58	14:24:58	360688289	838	2500	2.30	S
1-Aug-01	14:24:53	14:24:58	360688288	839	2500	2.30	B
1-Aug-01	14:24:58	14:24:58	360688289	839	2500	2.30	S
1-Aug-01	14:24:53	14:24:58	360688288	840	2500	2.30	B
1-Aug-01	14:24:58	14:24:58	360688289	840	2500	2.30	S
1-Aug-01	14:24:53	14:24:58	360688288	841	2500	2.30	B
1-Aug-01	14:24:58	14:24:58	360688289	841	2500	2.30	S
1-Aug-01	14:25:12	14:25:18	360688290	842	2500	2.30	B
1-Aug-01	14:25:18	14:25:18	360688291	842	2500	2.30	S
1-Aug-01	14:25:12	14:25:18	360688290	843	2500	2.30	B
1-Aug-01	14:25:18	14:25:18	360688291	843	2500	2.30	S
1-Aug-01	14:25:12	14:25:18	360688290	844	2500	2.30	B
1-Aug-01	14:25:18	14:25:18	360688291	844	2500	2.30	S
1-Aug-01	14:25:12	14:25:18	360688290	845	2500	2.30	B
1-Aug-01	14:25:18	14:25:18	360688291	845	2500	2.30	S
6-Aug-01	12:05:50	12:06:00	240936746	888	2100	2.30	B
6-Aug-01	12:06:00	12:06:00	240936747	888	2100	2.30	S
6-Aug-01	12:05:50	12:06:00	240936746	889	2100	2.30	B
6-Aug-01	12:06:00	12:06:00	240936747	889	2100	2.30	S
6-Aug-01	12:05:50	12:06:00	240936746	890	2100	2.30	B
6-Aug-01	12:06:00	12:06:00	240936747	890	2100	2.30	S
6-Aug-01	12:05:50	12:06:00	240936746	891	2100	2.30	B
6-Aug-01	12:06:00	12:06:00	240936747	891	2100	2.30	S
6-Aug-01	12:05:50	12:06:00	240936746	892	1600	2.30	B
6-Aug-01	12:06:00	12:06:00	240936747	892	1600	2.30	S
6-Aug-01	13:11:06	13:11:07	240936797	893	10000	2.40	B
6-Aug-01	12:12:17	13:11:07	420667868	893	10000	2.40	S
6-Aug-01	13:11:25	13:11:26	240936798	894	10000	2.40	B
6-Aug-01	13:11:07	13:11:26	420667869	894	10000	2.40	S
6-Aug-01	13:11:45	13:11:45	240936799	895	10000	2.40	B
6-Aug-01	13:11:25	13:11:45	420667870	895	10000	2.40	S
6-Aug-01	13:12:05	13:12:05	240936800	896	10000	2.40	B
6-Aug-01	13:11:45	13:12:05	420667871	896	10000	2.40	S
6-Aug-01	13:12:16	13:12:17	240936801	897	10000	2.40	B
6-Aug-01	13:12:05	13:12:17	420667872	897	10000	2.40	S
6-Aug-01	13:12:29	13:12:30	240936802	898	10000	2.40	B
6-Aug-01	13:12:16	13:12:30	420667873	898	10000	2.40	S
6-Aug-01	13:12:46	13:12:47	240936803	899	2000	2.40	B
6-Aug-01	13:12:29	13:12:47	420667874	899	2000	2.40	S
6-Aug-01	13:12:54	13:12:54	240936804	900	2000	2.40	B
6-Aug-01	13:12:54	13:12:54	420667875	900	2000	2.40	S
9-Aug-01	10:40:49	15:40:09	390812691	938	10000	2.00	B
9-Aug-01	15:40:09	15:40:09	240938774	938	10000	2.00	S
9-Aug-01	15:40:09	15:40:16	390812692	939	10000	2.00	B
9-Aug-01	15:40:16	15:40:16	240938775	939	10000	2.00	S
9-Aug-01	15:40:15	15:40:23	390812694	940	10000	2.00	B
9-Aug-01	15:40:22	15:40:23	240938776	940	10000	2.00	S

9-Aug-01	15:40:22	15:40:37	390812696	941	10000	2.00	B
9-Aug-01	15:40:37	15:40:37	240938777	941	10000	2.00	S
9-Aug-01	15:40:36	15:40:44	390812697	942	10000	2.00	B
9-Aug-01	15:40:44	15:40:44	240938778	942	10000	2.00	S
9-Aug-01	15:41:01	15:41:01	390812699	943	10000	2.00	B
9-Aug-01	15:41:01	15:41:01	240938779	943	10000	2.00	S
9-Aug-01	15:41:06	15:41:07	390812700	944	10000	2.00	B
9-Aug-01	15:41:06	15:41:07	240938780	944	10000	2.00	S
9-Aug-01	15:41:12	15:41:13	390812701	945	10000	2.00	B
9-Aug-01	15:41:12	15:41:13	240938781	945	10000	2.00	S
9-Aug-01	15:41:29	15:41:21	390812702	946	10000	2.00	B
9-Aug-01	15:41:20	15:41:21	240938782	946	10000	2.00	S
9-Aug-01	15:41:35	15:41:30	390812703	947	5000	2.00	B
9-Aug-01	15:41:30	15:41:30	240938783	947	5000	2.00	S
9-Aug-01	15:41:48	15:41:35	390812704	948	5000	2.00	B
9-Aug-01	15:41:35	15:41:35	240938784	948	5000	2.00	S
9-Aug-01	15:41:48	15:41:52	390812706	949	10000	2.00	B
9-Aug-01	15:41:51	15:41:52	240938786	949	10000	2.00	S
9-Aug-01	15:42:01	15:42:01	390812707	950	10000	2.00	B
9-Aug-01	15:42:01	15:42:01	240938787	950	10000	2.00	S
9-Aug-01	15:42:07	15:42:08	390812709	951	10000	2.00	B
9-Aug-01	15:42:08	15:42:08	240938788	951	10000	2.00	S
9-Aug-01	15:42:14	15:42:15	390812710	952	10000	2.00	B
9-Aug-01	15:42:14	15:42:15	240938789	952	10000	2.00	S
9-Aug-01	15:42:26	15:42:27	390812711	953	10000	2.00	B
9-Aug-01	15:42:27	15:42:27	240938790	953	10000	2.00	S
9-Aug-01	15:42:35	15:42:35	390812712	954	10000	2.00	B
9-Aug-01	15:42:35	15:42:35	240938791	954	10000	2.00	S
9-Aug-01	15:42:40	15:42:41	390812713	955	10000	2.00	B
9-Aug-01	15:42:41	15:42:41	240938792	955	10000	2.00	S
9-Aug-01	15:43:23	15:43:24	390812717	956	10000	2.00	B
9-Aug-01	15:43:23	15:43:24	240938793	956	10000	2.00	S
9-Aug-01	15:43:33	15:43:34	390812718	957	10000	2.00	B
9-Aug-01	15:43:33	15:43:34	240938794	957	10000	2.00	S
9-Aug-01	15:43:46	15:43:46	390812719	958	10000	2.00	B
9-Aug-01	15:43:46	15:43:46	240938795	958	10000	2.00	S
9-Aug-01	15:43:57	15:43:57	390812720	959	10000	2.00	B
9-Aug-01	15:43:57	15:43:57	240938796	959	10000	2.00	S
9-Aug-01	15:44:27	15:44:28	390812722	960	10000	2.00	B
9-Aug-01	15:44:27	15:44:28	240938798	960	10000	2.00	S
9-Aug-01	15:44:34	15:44:34	390812723	961	10000	2.00	B
9-Aug-01	15:44:34	15:44:34	240938799	961	10000	2.00	S
9-Aug-01	15:44:41	15:44:41	390812724	962	10000	2.00	B
9-Aug-01	15:44:41	15:44:41	240938800	962	10000	2.00	S
9-Aug-01	15:44:51	15:44:51	390812725	963	10000	2.00	B
9-Aug-01	15:44:51	15:44:51	240938801	963	10000	2.00	S
9-Aug-01	15:45:00	15:45:00	390812726	964	10000	2.00	B
9-Aug-01	15:45:00	15:45:00	240938802	964	10000	2.00	S

13-Aug-01		15:19:30	240939160	969	10000	2.00	B
13-Aug-01	15:19:29	15:19:30	240939161	969	10000	2.00	S
13-Aug-01	15:19:39	15:19:43	240939162	970	10000	2.00	B
13-Aug-01	15:19:42	15:19:43	240939163	970	10000	2.00	S
13-Aug-01	15:19:51	15:19:54	240939164	971	10000	2.00	B
13-Aug-01	15:19:53	15:19:54	240939165	971	10000	2.00	S
13-Aug-01	15:20:02	15:20:06	240939166	972	10000	2.00	B
13-Aug-01	15:20:05	15:20:06	240939167	972	10000	2.00	S
13-Aug-01	15:20:14	15:20:18	240939168	973	10000	2.00	B
13-Aug-01	15:20:17	15:20:18	240939169	973	10000	2.00	S
13-Aug-01	15:20:26	15:20:29	240939171	974	10000	2.00	B
13-Aug-01	15:20:29	15:20:29	240939172	974	10000	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1024	2500	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1024	2500	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1025	500	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1025	500	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1026	2000	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1026	2000	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1027	1000	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1027	1000	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1028	1500	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1028	1500	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1029	1500	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1029	1500	2.00	S
6-Sep-01	14:41:57	14:41:57	300959032	1030	1000	2.00	B
6-Sep-01	14:41:40	14:41:57	300959025	1030	1000	2.00	S
6-Sep-01	14:42:46	14:42:46	300959042	1031	2500	2.00	B
6-Sep-01	14:42:39	14:42:46	300959040	1031	2500	2.00	S
6-Sep-01	14:42:46	14:42:46	300959042	1032	1000	2.00	B
6-Sep-01	14:42:39	14:42:46	300959040	1032	1000	2.00	S
6-Sep-01	14:42:46	14:42:46	300959042	1033	1500	2.00	B
6-Sep-01	14:42:39	14:42:46	300959040	1033	1500	2.00	S
6-Sep-01	14:42:46	14:42:46	300959042	1034	2000	2.00	B
6-Sep-01	14:42:39	14:42:46	300959040	1034	2000	2.00	S
6-Sep-01	14:42:46	14:42:46	300959042	1035	500	2.00	B
6-Sep-01	14:42:39	14:42:46	300959040	1035	500	2.00	S
6-Sep-01	14:42:46	14:42:46	300959042	1036	2500	2.00	B
6-Sep-01	14:42:39	14:42:46	300959040	1036	2500	2.00	S
6-Sep-01	14:43:05	14:43:05	300959045	1037	1500	2.00	B
6-Sep-01	14:42:59	14:43:05	300959044	1037	1500	2.00	S
6-Sep-01	14:43:05	14:43:05	300959045	1038	1500	2.00	B
6-Sep-01	14:42:59	14:43:05	300959044	1038	1500	2.00	S
6-Sep-01	14:43:05	14:43:05	300959045	1039	1500	2.00	B
6-Sep-01	14:42:59	14:43:05	300959044	1039	1500	2.00	S
6-Sep-01	14:43:05	14:43:05	300959045	1040	1500	2.00	B
6-Sep-01	14:42:59	14:43:05	300959044	1040	1500	2.00	S
6-Sep-01	14:43:33	14:43:33	300959060	1041	3500	2.00	B
6-Sep-01	14:43:25	14:43:33	300959056	1041	3500	2.00	S

6-Sep-01	14:43:33	14:43:33	300959060	1042	3500	2.00	B
6-Sep-01	14:43:25	14:43:33	300959056	1042	3500	2.00	S
6-Sep-01	14:43:33	14:43:33	300959060	1043	3000	2.00	B
6-Sep-01	14:43:25	14:43:33	300959056	1043	3000	2.00	S
6-Sep-01	14:43:55	14:43:56	300959073	1044	3500	2.00	B
6-Sep-01	14:43:47	14:43:56	300959070	1044	3500	2.00	S
6-Sep-01	14:43:55	14:43:56	300959073	1045	500	2.00	B
6-Sep-01	14:43:47	14:43:56	300959070	1045	500	2.00	S
6-Sep-01	14:43:55	14:43:56	300959073	1046	3000	2.00	B
6-Sep-01	14:43:47	14:43:56	300959070	1046	3000	2.00	S
6-Sep-01	14:43:55	14:43:56	300959073	1047	1000	2.00	B
6-Sep-01	14:43:47	14:43:56	300959070	1047	1000	2.00	S
6-Sep-01	14:43:55	14:43:56	300959073	1048	2000	2.00	B
6-Sep-01	14:43:47	14:43:56	300959070	1048	2000	2.00	S
6-Sep-01	14:44:15	14:44:15	300959079	1049	1000	2.00	B
6-Sep-01	14:44:08	14:44:15	300959075	1049	1000	2.00	S
6-Sep-01	14:44:15	14:44:15	300959079	1050	500	2.00	B
6-Sep-01	14:44:08	14:44:15	300959075	1050	500	2.00	S
6-Sep-01	14:44:15	14:44:15	300959079	1051	500	2.00	B
6-Sep-01	14:44:08	14:44:15	300959075	1051	500	2.00	S
6-Sep-01	14:44:15	14:44:15	300959079	1052	1000	2.00	B
6-Sep-01	14:44:08	14:44:15	300959075	1052	1000	2.00	S
6-Sep-01	14:44:15	14:44:15	300959079	1053	1000	2.00	B
6-Sep-01	14:44:08	14:44:15	300959075	1053	1000	2.00	S

- 1.7 In view of the above, it was prima facie alleged that the Broker had violated regulation 7 of the Broker Regulations, clause A (1), A (2) and A (4) of the Code of Conduct specified in the Broker Regulations and regulation 4 (a) and 4 (b) of the FUTP Regulations.

2.0 APPOINTMENT OF ENQUIRY OFFICER

- 2.1 On completion of investigations, SEBI appointed an Enquiry officer vide order dated July 08, 2004 under regulation 5(1) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the Enquiry Regulations) to enquire into the alleged violations committed by the Broker as mentioned above while dealing in the shares of the company.

2.2 Accordingly, a notice dated August 26, 2004 was issued to the Broker asking it to show cause as to why recommendations under Regulation 13 (1) of the Enquiry Regulations should not be imposed against it. The copy of the proceedings in respect of the appointment of the Enquiry Officer and the findings of the investigation were also forwarded to the Broker with the said show cause notice. Though an opportunity was given to the Broker to file its reply, it had failed to do so. Further, an opportunity of hearing was also provided to the Broker by the Enquiry Officer. The Broker vide letter dated January 25, 2005 informed that it could not attend the hearing. Further in the said letter it had inter alia stated that the trades done by it were purely on commercial terms at the prevailing market prices without any malafide intention of distorting the market or causing any loss to any market participant or any small investors. The Enquiry Officer in his report dated October 21, 2005 did not recommend any action against the Broker, as according to him the charges leveled against the Broker were not established.

3.0 CONSIDERATION OF ISSUES AND FINDINGS.

3.1 I note that the Broker had executed substantial trades in the shares of the company, which were illiquid at the time of the transactions. The entire such transactions executed by the Broker were by way of cross deals. I note that the Broker had executed several cross deals almost on a regular basis and at higher volume. Both sell and buy orders were placed almost at the same time from the single terminal of the Broker with the same quantity, price etc. In the process, the Broker had allowed its clients to execute trades at a pre-determined price and time causing variations in volume and thereby, impaired the market integrity by entering into trades which were not genuine. In the facts and circumstances, I observe that the Broker has prima facie violated the provisions of Regulation 4 (a) and (b) of the FUTP Regulations and clauses A (1), (2) and (4) of the Code of Conduct stipulated in Schedule II to the Broker Regulations.

- 3.2 Accordingly a notice dated April 26, 2006 was issued in detail to the Broker asking him to show cause as to why a major penalty of suspension of the certificate of registration for a period of six months should not be imposed against it. A copy of the Enquiry Report was also forwarded to the Broker with the said show cause notice. The prima facie grounds for the proposed penalty were also explained in detail in the said show cause notice.
- 3.3 The Broker vide letter dated May 9, 2006 inter alia stated that it had executed trades in the shares of the company only during July 27, 2001 to September 16, 2001 at the prevailing market rates ranging between Rs.2.00 to Rs.2.40. The Broker submitted that trades were executed on commercial terms and at the prevailing market rates on behalf of the clients without any knowledge of their intent with respect to income tax. It further stated that trades in the shares of the company were executed without any malafide intentions of distorting the market or price rigging or for causing any loss to any market participant and/or small investors.
- 3.4 The Broker was also granted an opportunity of hearing on February 19, 2007. Shri Ashish Maheshwari as authorized by the Broker appeared before me and admitted the violations committed by the Broker. He further submitted that the terminals of the Broker were switched off in 2002 on the request of the Broker and stated that there had been no trading for the last five years.
- 3.5 I have perused the investigation report, the enquiry report, the show cause notice dated April 26, 2006, the reply of the Broker dated May 9, 2006, the oral submissions made on behalf of the Broker at the time of the hearing and other materials available on record. The trade executed by the Broker in the shares of the company is an undisputed fact. I note that both sell and buy orders were placed almost at the same time from the single terminal of the Broker with the same quantity, price etc which

impaired the market integrity by entering into trades which were not genuine.

3.6 The Broker has not disputed the trades done by it on behalf of its clients in the shares of the company at CSE during August 2001 to September 2001. In the said process, the Broker had executed trades for 9,88,000 shares of the said company out of the total turnover of 78,68,302 shares at CSE. I note that the majority of the aforesaid trades of the Broker were by way of cross deals executed at its single terminal. The details of the cross deals executed by the Broker are explained in detail in the table given in para 1.6 above. On a perusal of the said trades, it can be seen that the Broker had executed cross deals on a regular basis from August 01, 2001 to September 06, 2001.

3.7 I note that the cross deals accounted for majority of the trades of the Broker at CSE in the shares of the company between August 1, 2001 to September 06 2001 as show in the table at para 1.6. The continuity and the consistency with which the said cross deals were executed by the Broker on behalf of its clients in the shares of the company cannot be a matter of coincidence, considering its nature (the price, quantity and time) and its recurrence in a row. It can be seen that most of the buy and the sell orders were placed by the Broker at almost the same time, with just a difference of few seconds. The said proximity in the placing of orders at the same price and for the same quantity, resulted in the matching of the aforesaid transactions, with all the ingredients i.e. quantity, price and the time, required to conclude the trades. Above all it has to be seen that all the transactions were executed at the single terminal of the Broker.

3.8 The method and manner in which the said cross deals were executed will clearly establish that the same were meant for the purpose of manipulating the price and volumes in the shares of the company, against the fundamentals of the functioning of the securities market. The

transactions executed by the Broker undoubtedly increased the volume of the company artificially so as to induce the genuine investors.

- 3.9 In the given circumstances, considering the nature of the trades (uniformity in time, quantity and price etc.), it can not be said that the transactions executed by the Broker were genuine. The series of trades in the form of cross deals, considering its numbers, quantity etc. will only lead to the finding that all the deals were done with the purpose of manipulating the price / volume in the shares of the company and thereby the securities market to the detriment of the genuine investors. The said concerted level of activity, is only compatible with the purposes of manipulating the securities market on the part of the Broker. Such transactions undoubtedly create an artificial market to mislead the genuine investors and the said transactions create false volumes. It is too much of a coincidence over too long a period in too many transactions when the same stock broker had entered into buy and sell orders for the same quantity of shares almost simultaneously.
- 3.10 The Broker failed to exercise due skill, care and diligence which was expected from a prudent stock broker who had a duty not only towards its client but also towards the securities market. On the other hand the Broker continued to execute such trades. The cross deals were executed from the same terminal and almost at the same time. The trades executed by the Broker were not genuine in the sense that the said trades were executed between client to client at the same terminal.
- 3.11 In the above facts and circumstances, it is fairly established that the trades of the Broker in the shares of the company were done for the purpose of creating false and misleading appearance of trading and for the purpose of manipulating the volume of the shares of the said company and that the same should be within the knowledge of the Broker, when the

anonymity of screen - based trading has been breached by his pervasive presence on both sides. I note that the Broker was a necessary party to the transactions giving rise to artificiality in the market. Instead of exercising caution, the Broker had executed large number of trades and thereby was instrumental in creating artificial volumes and price in the shares of the company.

3.12 The peculiar nature of the trades executed by the Broker and the modus operandi in those transactions persuades me to the conclusion that these transactions were the outcome of a predetermined and planned action. The Broker allowed its clients to trade in the shares of the company substantially. Cross deals involving interplay of market forces, pre supposes the active participation of the Broker. In the present case, the Broker was directly involved and was trading on both sides of the transactions and the same itself will prove the direct participation of the Broker in the entire transactions that took place in the shares of the company (as stated above) for the purpose of giving a misleading appearance of trading in the market and thereby artificially increasing the volume/ price of the said shares. I note that the Broker had created artificial volumes in the shares of the company to attract the small investors.

3.13 In the facts and circumstances, the trades executed by the Broker in the shares of the company at CSE as explained above in detail, would only lead to the conclusion that same were not genuine which created misleading appearance of trading on the securities market and was intended only for the purpose artificially raising the prices of shares of the company thereby inducing the sale or purchase of the said shares by any person. The Broker's direct participation (on both buy and sell sides) would prove him guilty in respect of the market manipulation.

- 3.14 I further note that the trades executed by the Broker in the shares of the company as aforesaid created a false appearance of trading. Once the factum of manipulation is proved, then as observed by SAT in the matter of Ketan Parekh Vs SEBI, the investors are affected by the said manipulation. The relevant observation made by SAT in this regard is reproduced as below:

“When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy / sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged.”

- 3.15 A cumulative analysis of the facts of the case, clearly indicate that the Broker did not act in a bonafide manner. On the contrary, the above facts highlight its complete involvement in the creation of misleading market in the shares of the company and the creation of artificial volume/ price in the said shares.
- 3.16 The natural corollary to this issue is whether the Broker had maintained high standards of integrity, promptitude, fairness and exercised due skill, care and diligence in the conduct of its business. In terms of the Code of Conduct prescribed under the provisions of the Broker Regulations, a

stock broker shall not create false market or indulge in any act detrimental to the investors' interest or which leads to the interference with the fair and smooth functioning of the securities market. The trades (including the cross deals) executed by the Broker as explained in detail above will prove that the said trades in the shares of the company created a misleading appearance in the market and further created artificial volume and price in the said shares by vitiating the price movement mechanism prevailing in the securities market. It further shows that the Broker had not exercised due skill, care and diligence and not maintained high standards of integrity, promptitude, fairness in the conduct of its business.

3.17 Therefore, it is fairly established that the Broker had violated the provisions of Regulations 4(a) and (b) of the FUTP Regulations and clauses A(1), (2) and (4) of the Code of Conduct specified in Schedule II of the Broker Regulations. The authorized representative of the Broker, during the time of the hearing on February 19, 2007 admitted the violations committed by the Broker.

3.18 In the facts and circumstances, the violations committed by the Broker call for penalty and therefore, I do not find any reason to agree with the recommendation of the Enquiry Officer. Considering the facts of the case as discussed in detail, I find that this is a fit case for imposing major penalty of suspension of the certificate of registration of the Broker, as ordered herein under.

4.0 ORDER

4.1 In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 of the Securities and Exchange Board of India Act, 1992 read with regulation 13(4) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty)

Regulations, 2002, hereby impose a major penalty of suspension of the certificate of registration of Lexus Shares & Stock Brokers Pvt. Ltd {Registration no. INB031017632}, Member, Calcutta Stock Exchange Association Ltd. for a period of six months.

- 4.2 This order shall come into force immediately on the expiry of 21 days from the date of this order.

G ANANTHARAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai
Date:26/03/2007